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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,609	03/17/2004	Bernard Favre-Bulle	DT-6779	4991
30377	7590	03/24/2006	EXAMINER	
DAVID TOREN, ESQ. ABELMAN FRAYNE & SCHWAB 666 THIRD AVENUE NEW YORK, NY 10017-5621			PATIDAR, JAY M	
			ART UNIT	PAPER NUMBER
			2862	

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/802,609	<b>Applicant(s)</b> FAVRE-BULLE, BERNARD	
	<b>Examiner</b> Jay M. Patidar	<b>Art Unit</b> 2862	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-11 is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 4-8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

1. This communication is in response to applicant's amendment received on January 4, 2006.

2. The proposed drawing correction, filed on January 4, 2006, has been approved by the examiner.

3. Claims 1-8 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). Perhaps applicant intends to say "including" instead.

In claim 1, line 5, there is no antecedent basis for "inductive metal detector system". Perhaps applicant intends to say "assembly" instead of "system".

The claims not specifically addressed share the indefiniteness as they depend from rejected base claims.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims <sup>1-3</sup>1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 42 00 518 ("518").

As to claims 1-2, DE 4200518 discloses an inductive sensing apparatus with an inductive metal detecting assembly S (fig. 1); an evaluation means e.g. 5; means 3,4 for generating an alternating current for the excitation coil arrangement having at least two frequencies (note abstract, fig. 1).

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Yasohama et al. (5,548,214).

As to claims 1-3, Yasohama discloses an inductive sensing apparatus with an inductive metal detecting assembly 30 (fig. 4); an evaluation means 42,44; means 10 for generating an alternating current for the excitation coil arrangement having at least two frequencies (fig. 4). Yasohama further discloses an evaluation coil arrangement 30b. (please note that a preamble is not

accorded any patentable weight because it merely recites the purpose of a process or the intended use of a structure).

5. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

6. Claims 4-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 9-11 are allowed.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jay M. Patidar whose telephone number is 571-272-2265. The examiner can normally be reached on M-Thur 7:00-5:30.

The fax number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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March 20, 2006